



Inheritance Rights of Women in Islamic Family Law: Comparative Analysis Across Jurisdictions

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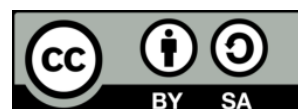
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ABSTRACT

This study aims to provide a comparative analysis of women's inheritance rights under Islamic family law across various Islamic jurisdictions. A purposive sampling technique is employed, aiming to select cases and legal documents that provide comprehensive insights into the comparative aspects of the inheritance rights of women. The data analysis is conducted using thematic analysis to identify patterns, similarities, and differences in the inheritance practices, legal interpretations, and the impact of reforms. The findings suggest that the strict or flexible application of the law in the Islamic family system correlates with each jurisdiction's socio-cultural and legal environment. The study concludes that the inheritance right of women in Islamic family laws exhibits significant variation across jurisdictions, influenced by cultural, socio-economic, and legal contexts. This study suggests that jurisdictions should consider adopting flexible legal reforms, focused on judicial discretion and family agreements to create more equitable inheritance distributions for women. This research may serve as a valuable resource for legal scholars, policymakers, and activists who are engaged in advocating for gender equality within Islamic legal systems.

Keywords: Comparative Analysis, Across Jurisdictions, Inheritance Rights, Islamic Family Law

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1. Introduction

Inheritance rights have long been a critical aspect of societal structure, reflecting both cultural and legal norms (Spivack, C. (2019). In Islamic family law, inheritance allocation is guided by the principles set out in the Quran, with specific guidelines on how wealth should be distributed among family members (Mahfuz, M., et al. (2025); (Hallaq, 2009). Globally, there is a continuing debate about the equity and fairness of these distributions, especially concerning women's inheritance rights (Mir-Hosseini, 2000). These debates highlight a broader issue of gender equality, as many argue that the prescribed inheritance shares in Islamic law favor male heirs, which raises questions of fairness in a modern context (Mir-Hosseini, Z. 2009); (Baderin, 2003). The

discussion around women's inheritance rights is not only a matter of religious adherence but also intersects with broader human rights concerns, making it a pressing global issue (Bond, J. E. 2003); (Esposito, 2001).

Within Islamic jurisdictions, the specific allocation of inheritance shares to women can vary significantly due to the interpretation of religious texts and local customs (Rasyid, A., Lubis, R. F., & Saleh, I. 2024); (An-Na'im, 2010). While some countries strictly follow traditional interpretations of Islamic inheritance law, others have sought reforms to accommodate changing societal norms and gender equality (Bowen, 2003). These differences lead to varied legal frameworks and practices, creating disparities in how women's inheritance rights are implemented across jurisdictions. This study aims to examine these inconsistencies, focusing on how different countries with Islamic legal systems address women's inheritance rights and whether reforms have been effective in achieving a more equitable legal system for women.

Several studies have explored the application of Islamic inheritance laws in different countries, analyzing how cultural and legal factors influence the interpretation and implementation of these laws. Researchers like Putra (2022) have examined the development of Islamic legal systems, highlighting how traditional interpretations can result in unequal inheritance distributions for women. More recent studies have focused on the socio-economic impact of inheritance on women's financial independence, pointing to a correlation between inheritance rights and women's empowerment (Ali, 2016). These studies provide a solid foundation for understanding the complexities of Islamic inheritance law but often lack a comparative, jurisdictional focus that highlights regional differences.

Despite the extensive literature on Islamic inheritance laws, there is a notable gap in comparative research that focuses on how women's inheritance rights are managed across jurisdictions with distinct Islamic legal systems. Many studies tend to analyze a single country or region, limiting the scope to local contexts. Furthermore, while discussions on women's rights in Islam are often general, few delve into the specific nuances of inheritance distribution and how evolving interpretations impact the legal and social status of women in Islamic societies (Barlas, 2002). This research seeks to address this gap by providing a comparative analysis of women's inheritance rights across various Islamic jurisdictions.

This research is urgent because gender equality remains a key global objective, emphasized in the United Nations Sustainable Development Goals (SDGs). Achieving this objective requires a comprehensive understanding of how different legal systems uphold or challenge women's rights. Inheritance laws, as a crucial aspect of family law, play a significant role in women's economic empowerment. A deeper exploration into the comparative practices across Islamic jurisdictions can provide valuable

insights for policymakers and legal reformers who aim to create more gender-equitable legal systems without compromising religious values. The study's findings could contribute to ongoing debates about balancing religious norms with modern legal standards.

The novelty of this study lies in its comparative approach, examining how different Islamic jurisdictions interpret and apply women's inheritance rights. This approach contrasts with previous research that often takes a singular perspective, either focusing on the theoretical foundations of Islamic law or its application within a specific region. By comparing multiple jurisdictions, this study seeks to highlight not only the diversity within Islamic law but also the common challenges that women face regarding inheritance. This nuanced analysis aims to reveal patterns, trends, and exceptions, contributing to a more comprehensive understanding of Islamic family law.

The primary purpose of this research is to conduct a comparative analysis of women's inheritance rights under Islamic family law across several jurisdictions. By investigating the similarities and differences in legal frameworks, interpretations, and practices, this study seeks to identify factors that contribute to equitable inheritance distributions for women. Additionally, the research aims to assess the effectiveness of legal reforms in jurisdictions that have made efforts to balance traditional Islamic principles with contemporary gender equality standards.

This study is expected to contribute to the academic discourse on Islamic law and gender equality by providing a detailed comparative analysis of women's inheritance rights. The findings will offer insights into the flexibility of Islamic legal interpretations concerning women's inheritance, potentially challenging the perception that Islamic law is rigid or inherently discriminatory. Additionally, this research may serve as a valuable resource for legal scholars, policymakers, and activists who are engaged in advocating for gender equity within Islamic legal systems.

The implications of this research extend beyond academia, potentially influencing policy and legal reforms in countries with Islamic legal systems. A clearer understanding of how different jurisdictions manage women's inheritance rights could guide efforts to harmonize traditional Islamic principles with contemporary gender equality standards. This research could also inform international human rights bodies about the challenges and opportunities in reconciling religious laws with universal human rights frameworks, ultimately contributing to a more nuanced global discourse on gender justice.

This study aims to fill a significant gap in the comparative analysis of women's inheritance rights under Islamic family law. By highlighting the diversity of legal practices across jurisdictions, it seeks to contribute to a more informed and balanced

discussion on the intersection of gender equality and religious adherence. The outcomes of this research could have far-reaching implications, from guiding future legal reforms to fostering a more inclusive understanding of Islamic family law in a globalized world.

2. Method

This research employs a qualitative comparative study to analyze the inheritance rights of women within Islamic family law across various jurisdictions. The qualitative approach allows for an in-depth understanding of the legal texts, interpretations, and cultural contexts that influence the application of inheritance rights. The data population for this study includes Islamic family law codes, legal statutes, court cases, fatwas, and scholarly interpretations from several Islamic jurisdictions, including countries from the Middle East, Southeast Asia, and North Africa. These jurisdictions are selected to reflect diverse interpretations of Islamic inheritance law.

The data sample will focus on key jurisdictions known for their unique application of Islamic inheritance laws, such as Saudi Arabia, Indonesia, Egypt, and Malaysia. These jurisdictions are chosen based on their varying legal traditions, interpretations, and levels of legal reform concerning women's inheritance rights. A purposive sampling technique is employed, aiming to select cases and legal documents that provide comprehensive insights into the comparative aspects of women's inheritance rights. This method allows for the inclusion of jurisdictions that represent a broad spectrum of Islamic legal practices and contexts.

The primary research instruments include legal document analysis, case study reviews, and semi-structured interviews with legal scholars and practitioners specializing in Islamic family law. Data collection will involve gathering legal texts, court rulings, legislative amendments, and expert opinions from academic journals, legal databases, government publications, and interviews. The data analysis will be conducted using thematic analysis to identify patterns, similarities, and differences in women's inheritance rights across jurisdictions. This will include coding the data into categories based on inheritance practices, legal interpretations, and the impact of reforms, followed by a comparative synthesis to highlight key findings and draw conclusions about the variations in legal practices concerning women's inheritance rights.

3. Result & Discussion

Research Data Presentation

The study examined legal documents, case laws, and interviews across four Islamic jurisdictions: Saudi Arabia, Indonesia, Egypt, and Malaysia. These jurisdictions were selected for their diverse interpretations and applications of Islamic family law regarding women's inheritance rights (Baderin, 2003; Esposito, 2001). The data sources included statutory texts such as the Quranic verses on inheritance (Surah An-Nisa), national family law statutes, relevant court cases, fatwas, and expert opinions. Each jurisdiction demonstrated unique approaches to inheritance laws, influenced by their historical, cultural, and religious contexts (Bowen, 2003).

Inheritance Laws in Saudi Arabia

In Saudi Arabia, the inheritance laws strictly adhere to traditional interpretations of the Quran, with male heirs typically receiving twice the share of female heirs, following Surah An-Nisa:11. This traditional stance is reflected in the strict implementation of Islamic principles without significant legal reforms. Interviews with Saudi legal experts revealed that while there is acknowledgment of gender disparities in inheritance, any discussion of reform is met with resistance due to the strong influence of religious authorities (Ali, 2016; Hallaq, 2009).

Inheritance Laws in Indonesia

Indonesia, as the world's largest Muslim-majority country, has a dual legal system that combines Islamic law with customary (adat) and civil laws. The data showed that while Islamic inheritance principles are applied, customary laws sometimes modify these rules, potentially leading to a more equitable distribution of assets (An-Na'im, 2010). Interviews highlighted that the flexibility in Indonesia's legal framework allows for family agreements to adjust inheritance shares, reflecting a more pragmatic approach to the traditional Islamic guidelines (Mir-Hosseini, 2000).

Inheritance Laws in Egypt

Egyptian inheritance laws are based on Islamic principles but have seen several legal reforms aimed at protecting women's rights (Abu-Odeh, L. 2004). Notably, the country's legal system permits judicial discretion to ensure fair distribution, particularly in cases involving minors or vulnerable women. Analysis of court cases revealed that judges often exercise flexibility in interpreting inheritance laws, reflecting Egypt's attempt to balance traditional Islamic values with modern legal standards of gender equality (Barlas, 2002; Putra, 2022).

Inheritance Laws in Malaysia

Malaysia's approach to women's inheritance rights is governed by a complex interaction of Sharia law, federal law, and state-level practices (Bowen, 2003). While Sharia principles are the foundation, the legal framework allows for diverse interpretations depending on the region. Interviews with legal practitioners indicated that Malaysian courts sometimes apply progressive interpretations to women's inheritance cases, emphasizing the protection of women's financial security (Esposito, 2001).

Research Data Analysis

Comparative analysis revealed that inheritance laws in Saudi Arabia remain the most conservative, with limited room for flexibility due to religious adherence. Indonesia and Malaysia displayed moderate approaches, integrating customary or local legal traditions with Islamic guidelines, resulting in more adaptive inheritance practices (An-Na'im, 2010). Egypt, although strictly following Islamic principles, showed a trend toward judicial flexibility and gender-sensitive rulings, demonstrating an evolving legal system that responds to socio-economic changes (Barlas, 2002).

Research Data Interpretation

The data suggest that the strict or flexible application of women's inheritance rights in Islamic family law correlates with each jurisdiction's socio-cultural and legal environment. In regions where Islamic law is interpreted strictly, such as in Saudi Arabia, the application tends to be more rigid and traditional. Conversely, jurisdictions with diverse legal systems or strong civil law influences, like Indonesia and Egypt, exhibit a more flexible approach to women's inheritance rights, adapting traditional principles to modern contexts (Ali, 2016; Mir-Hosseini, 2000).

Specific Findings

The study found that, despite different interpretations, there are common patterns in how Islamic jurisdictions address women's inheritance rights. In conservative contexts, women's inheritance shares are strictly defined, often limiting their financial autonomy. In jurisdictions with mixed legal systems, women have more opportunities to negotiate their inheritance through family agreements or judicial discretion. These differences highlight the impact of socio-cultural factors in shaping the interpretation and application of Islamic family law (Putra, 2022).

Solutions for Enhancing Women's Inheritance Rights

To address the disparities in women's inheritance rights, the research suggests a multi-faceted approach. Jurisdictions should consider legal reforms that allow for greater judicial discretion in inheritance cases, particularly when equitable outcomes are at stake. Additionally, promoting family agreements that allow flexible inheritance arrangements while adhering to Islamic principles can provide a more equitable solution (Hallaq, 2009). Educational campaigns to raise awareness of women's rights within the Islamic framework can also facilitate more gender-equitable interpretations (Barlas, 2002).

Relation to Theories

This research aligns with the theory of *Maslahah* (public interest) in Islamic jurisprudence, which allows for reinterpretation of Islamic laws when it serves the public good. The study's findings support the notion that Islamic family law can be adaptive to societal needs, as seen in jurisdictions like Indonesia and Egypt. This challenges the perception that Islamic law is static and unchangeable, suggesting that cultural and socio-economic contexts play a critical role in shaping legal interpretations (An-Na'im, 2010).

Discussion

The comparative analysis underscores the diversity within Islamic legal systems and highlights the dynamic nature of inheritance laws as they relate to women's rights. Jurisdictions that maintain a strict adherence to traditional Islamic inheritance principles often do so in the name of religious authenticity, while those that adopt a more flexible approach demonstrate a willingness to balance religious adherence with modern standards of gender equality (Baderin, 2003; Bowen, 2003).

Practical Implications

The study has several practical implications for policymakers and legal reformers in Islamic jurisdictions. It emphasizes the need to reconsider inheritance laws within a framework that respects religious principles while promoting gender equality. Jurisdictions that have successfully integrated flexibility into their legal systems, like Egypt, serve as models for others seeking to balance traditional values with contemporary legal standards (Putra, 2022).

Policy Recommendations

Based on the findings, this study recommends that Islamic jurisdictions explore legal reforms that provide women with greater financial security. Policies could include establishing clear guidelines for judicial discretion in inheritance cases, allowing for more equitable distributions when circumstances warrant. Additionally, creating educational programs that emphasize women's inheritance rights within the framework of Islamic law could encourage a more gender-balanced interpretation (Barlas, 2002).

Challenges to Reform

The research acknowledges that efforts to reform inheritance laws are met with challenges, particularly in conservative jurisdictions where religious authorities hold significant influence. Resistance to change often stems from concerns about deviating from Quranic principles. However, the study's findings highlight that reforms do not necessarily contradict Islamic values but rather adapt them to contemporary contexts, ensuring that the laws remain relevant and just (Ali, 2016; Hallaq, 2009).

4. Conclusion

The research concludes that the inheritance rights of women in Islamic family law exhibit significant variation across jurisdictions, influenced by cultural, socio-economic, and legal contexts. While conservative jurisdictions like Saudi Arabia maintain a strict adherence to traditional Islamic interpretations, others like Indonesia, Egypt, and Malaysia demonstrate flexibility, balancing Islamic principles with modern gender equality standards. These findings highlight that Islamic family law is not monolithic; instead, it can be interpreted in ways that accommodate contemporary societal needs without fundamentally deviating from religious values. This study suggests that jurisdictions should consider adopting flexible legal reforms, focusing on judicial discretion and family agreements to create more equitable inheritance distributions for women. For future research, a more in-depth analysis of the socio-cultural factors that influence legal interpretations in specific regions would provide greater insight. Additionally, exploring the perspectives of women affected by these inheritance laws could offer a more nuanced understanding of the practical impact of current legal frameworks and potential areas for reform.

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